



THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA

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October 23, 2006

Received 10/23/06
MSHA/OSRV

Mine Safety and Health Administration (MSHA)
Office of Standards, Regulations and Variances
1100 Wilson Blvd., Room 2350
Arlington, Virginia 22209-3939

Subject: RIN 1219-AB51 (Criteria and Procedures for Proposed Assessment of Civil Penalties)

Dear Docket Office:

The Associated General Contractors of America (AGC) is a national trade association of more than 32,000 member companies, including 7,000 of America's leading general contractor firms. AGC appreciates the opportunity to provide comments on the proposed changes to the assessment of civil penalties for mine operations. Our concerns consist of the changes to assessments of penalties, and the reduction in time for providing additional information or to request a conference with MSHA.

AGC member companies provide raw materials from mines for the construction process and are concerned with the new criteria and procedures proposed by MSHA. The Bureau of Labor Statistics (BLS) has reported that construction sand and gravel mining consist of only 5 percent of all mining fatalities annually. These types of mine operations vary greatly in risk from underground mines and should not be subject to the proposed increases in MSHA penalties. MSHA should make an exception for construction sand and gravel mining and focus the new regulations on the underground mines that have the focus of the 2006 MINER Act.

Additionally, MSHA has proposed a change in the current standard giving only 5 days instead of 10 days to submit information concerning a proposed citation, or to request a safety conference with MSHA. The preamble to the proposed change indicated that it will result in a more effective civil penalty system, but MSHA did not provide any information on how the current 10 day system has prevented the penalty system from being effective. AGC believes that the reduction of time only limits the time our members have to clarify or contest the citation without improving the "effectiveness" of the penalty system.

AGC appreciates the opportunity to provide comments on the proposed changes to the criteria and procedures for assessing civil penalties. We feel that through the promotion

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of technology, proper training and focus of enforcement on bad actors, safety can be improved on all mines. In addition, the construction sand and gravel mining industry should not be subject to the proposed changes due to its safety record.

Sincerely,

A handwritten signature in black ink, appearing to read 'SE Sandherr', with a long, sweeping flourish extending to the right.

Stephen E. Sandherr
CEO